

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

YIELD DYNAMICS, INC., a) 06-04579 SBA
California corporation,)
Plaintiff, Counter-Defendant) **ORDER**
vs.) (Docket No.s 9, 12, 19, 29)
SPANSION LLC, A Delaware)
Corporation,)
Defendant, Counter-Claimant.

Before the Court is Plaintiff's Motion for Partial Summary Judgment, Defendant's Motion for a Rule 56(f) Continuance of Plaintiff's Motion for Partial Summary Judgment, Plaintiff's Motion to Seal Documents, and Plaintiff's Evidentiary Objections.

After consideration of the papers filed, and the argument of counsel, the Court finds that Defendant "cannot for reasons stated present by affidavit facts essential to justify [Defendant's] opposition." Fed. R. Civ. P. 56(f). Therefore, pursuant to Rule 56(f), this Court refuses Plaintiff's application for judgment at this time and GRANTS Defendant's Motion for a Rule 56(f) Continuance of Plaintiff's Motion for Partial Summary Judgment.

IT IS FURTHER ORDERED THAT:

Plaintiff's Motion for Partial Summary Judgment is DENIED WITHOUT PREJUDICE as premature.

Plaintiff's Motion to Seal Documents is DENIED as moot. Plaintiff is granted leave to retrieve the documents, and if appropriate, to re-file them with the request to seal in connection with

1 a subsequent motion.¹

2 Plaintiff's Objections are OVERRULED as moot.

3

4

5 IT IS SO ORDERED.

6
7 Dated: 11/15/06


Saundra B. Armstrong

8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28
SAUNDRA BROWN ARMSTRONG
United States District Judge

¹The Case Management Statement (Docket 26) filed on October 20, 2006 indicates the parties have stipulated to or intend to stipulate to an agreed upon protective order concerning these documents. However, they have not yet filed a stipulation and proposed protective order with this Court. If the parties elect to refile these documents in connection with a motion, they are granted leave to file the stipulation and protective order as well.